UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/973,892	10/10/2001	James A. Kremens	REEL 0101 PUSP	1352

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EXAMINER
LIN, KENNY S

ART UNIT	PAPER NUMBER
2154	

DATE MAILED: 02/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

	Application No.	Applicant(s)
Office Action Summary	09/973,892	KREMENS ET AL.
	Examiner	Art Unit	
	Kenny Lin	2154	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _10 October 2001_.
2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.
3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1-24_ is/are pending in the application.
    4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5)☐ Claim(s) _____ is/are allowed.
6)☒ Claim(s) _1-24_ is/are rejected.
7)☐ Claim(s) _____ is/are objected to.
8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.
10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    a)☐ All b)☐ Some * c)☐ None of:
      1.☐ Certified copies of the priority documents have been received.
      2.☐ Certified copies of the priority documents have been received in Application No. _____.
      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
      application from the International Bureau (PCT Rule 17.2(a)).
    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _10/10/01_.
4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1.   Claims 1-24 are presented for examination.

2.   The IDS has been considered by the examiner.

Claim Objections

3.   Claim 22 is objected to because of the following informalities: The term "and" in line 7

needs to be removed. Appropriate correction is required.

Claim Rejections - 35 USC § 103

4.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

5.   Claims 1-5 and 8-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Hoffert et al (hereinafter Hoffert), US 6,374,260, in view of Davis et al (hereinafter Davis), US

5,969,716.

6.   As per claim 1, Hoffert taught the invention substantially as claimed including a network-

based system for centrally sampling distributed multimedia, the system comprising:

        a.   A plurality of distributed multimedia source computers (col.3, lines 21-29);

b. A multimedia warehouse configured to receive and archive multimedia files uploaded from the plurality of distributed multimedia source computers (col.7, lines 54-61, col.8, lines 15-21, 33-56; central site); and

c. At least one multimedia sampling computer configured to download one or more multimedia files archived in the multimedia warehouse (col.8, lines 23-29, col.11, lines 7-12).

7. Hoffert did not specifically teach to play the downloaded multimedia files in synchronization with a project file. Davis taught a multimedia sampling computer for playing downloaded multimedia files in synchronization with a project file (col.5, lines 33-45, 55-61, col.7, lines 37-54, col.9, lines 10-29, 47-53; real-time media signal). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Hoffert and Davis because Davis' teachings of multimedia operations allows the users to manipulate the downloaded multimedia from Davis' multimedia warehouse and create customized media presentations (col.1, lines 50-61, col.4, lines 32-44).

8. As per claim 2, Hoffert and Davis taught the invention substantially as claimed in claim 1. Hoffert further taught that the multimedia warehouse comprises a network server computer system in operable communication with at least one database (col.8, lines 6-14, 23-32, 47-56).

9.   As per claim 3, Hoffert and Davis taught the invention substantially as claimed in claim

1. Hoffert further taught that the multimedia files are selected from a group consisting of audio

files, video files, combined audio and video files and picture files (col.3, lines 36-43).

10.   As per claim 4, Hoffert and Davis taught the invention substantially as claimed in claim

1. Davis further taught that the project file is selected from a group consisting of audio files,

video files, combined audio and video files and picture files (col.7, lines 54-64, col.9, lines 21-

29).

11.   As per claim 5, Hoffert and Davis taught the invention substantially as claimed in claim

1. Davis further taught that the at least one multimedia sampling computer is additionally

configured to search the multimedia warehouse for multimedia files that best-match user-defined

search criteria (col.9, lines 35-50).

12.   As per claim 8, Hoffert and Davis taught the invention substantially as claimed in claim

1. Davis further taught that the at least one multimedia sampling computer is additionally

configured to edit playback attributes of the downloaded multimedia files (col.5, lines 33-45, 55-

61, col.7, lines 37-54, col.9, lines 10-29, 47-53; playback rate).

13.   As per claim 9, Hoffert and Davis taught the invention substantially as claimed in claim

1. Hoffert further taught that the distributed multimedia source computers, the multimedia

warehouse and the multimedia sampling computers are configured to host preview, purchasing,

or licensing of multimedia files (col.9, lines 54-67, col.10, lines 10-16).

14.   As per claim 10, Hoffert and Davis taught the invention substantially as claimed in claim

1. Hoffert further taught that the distributed multimedia source computers, the multimedia

warehouse and the multimedia sampling computers are configured to host online communication

between users of the multimedia source computers and users of the multimedia sampling

computers (figs.1 and 3).

15.   As per claim 11, Hoffert and Davis taught the invention substantially as claimed in claim

1. Hoffert further taught that the distributed multimedia source computers, the multimedia

warehouse and the multimedia sampling computers are configured to monitor version control for

multimedia file revisions (col.8, lines 57-67).

16.   Claims 6-7 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hoffert

and Davis as applied to claim 1 above, and further in view of "Official Notice".

17.   As per claim 6, Hoffert and Davis taught the invention substantially as claimed in claim

1. Hoffert and Davis did not specifically teach that the search criteria comprise file type, file

format, composition name, company name, composer name, project name, tempo and

description. However, Official Notice is taken that the limitations narrowed by these claims are

consider obvious and furthermore a matter of design choice. It would have been obvious to one

of ordinary skill in the art at the time the invention was made to combine the teachings of Hoffert

and Davis and further uses various categories to establish a search criteria to narrow down the

search to return better search results.

18.   As per claim 7, Hoffert and Davis taught the invention substantially as claimed in claim

1. Davis further taught to adjust playing tempo of the multimedia (col.7, lines 51-54, col.11,

lines 20-34). Hoffert and Davis did not specifically teach to connect a tap tempo calculator

peripheral device to the at least one multimedia sampling computer. However, "Official Notice"

is taken that it would have been obvious to use a tempo calculator device to enable a computer to

calculate the tempo and playing rate of a multimedia file. It would have been obvious to one of

ordinary skill in the art at the time the invention was made to combine the teachings of Hoffert

and Davis and further include editing devices and tools to support calculation and operations of

Hoffert and Davis' method in order for the user of Hoffert and Davis' method to manipulate and

adjust the multimedia files.

19.   As per claim 12, Hoffert and Davis taught the invention substantially as claimed in claim

1. Hoffert and Davis did not specifically teach that the multimedia sampling computer has an e-

mail system for inviting selected multimedia source computers to have access to the project file.

However, Official Notice is taken that the concept and advantage of using e-mail for

communication is well known and expected in the art. It would have been obvious to one of

ordinary skill in the art the time the invention was made to combine the teachings of Hoffert and

Davis and further provide e-mailing implementations to the computers to enable communications

between the users of the computers.

20.   Claims 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hoffert and

Davis as applied to claim 1 above, and further in view of Gustman, US 5,832,499.

21.   As per claim 13, Hoffert and Davis taught the invention substantially as claimed in claim

1. Hoffert further taught to store multimedia files at a local storage (col.8, lines 22-28). Hoffert

and Davis did not specifically teach that the multimedia warehouse has a local server that queries

a web server and retrieves new multimedia files for the multimedia warehouse, the sampling·

computer having an application that automatically associates an identified user with the local

server, the sampling computer upon recognizing the identified user and determining that the local

server is available, selects files from the local server, the sampling computer upon recognizing

the identified user and determining that the local server is not available, obtains files from a web

server. Gustman taught to include a local server that queries a web server and retrieves new

multimedia files for the multimedia warehouse, the sampling computer having an application

that automatically associates an identified user with the local server, the sampling computer upon

recognizing the identified user and determining that the local server is available, selects files

from the local server, the sampling computer upon recognizing the identified user and

determining that the local server is not available, obtains files from a web server (col.5, lines 56-

67, col.6, lines 1-9). It would have been obvious to one of ordinary skill in the art at the time the

invention was made to combine the teachings of Hoffert, Davis and Gustman because Gustman's

teachings of decentralized distribution helps Hoffert and Davis' method to speed up the

searching process by first searching in local cache to see if the multimedia content was previous

retrieved and stored.

22.   Claims 14-18 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Hoffert et al (hereinafter Hoffert), US 6,374,260, in view of Davis et al (hereinafter Davis), US

5,969,716, and Eberman et al (hereinafter Eberman), US 6,173,287.

23.   As per claim 14, Hoffert taught the invention substantially as claimed including a

network-based method for marketing multimedia, the method comprising:

   a. Receiving multimedia files from a plurality of distributed multimedia providers

       into an online multimedia warehouse (col.3, lines 21-29, col.7, lines 54-61, col.8,

       lines 15-21, 33-56);

   b. Providing the multimedia files within the online multimedia warehouse to

       distributed multimedia consumers for download (col.8, lines 23-29, col.11, lines

       7-12).

24.   Hoffert further taught to bill multimedia consumer usage of storage (col.9, lines 54-67).

Hoffert did not specifically teach that the multimedia consumers sample downloaded multimedia

files in synchronization with a project file and to sell the downloaded multimedia file to the

multimedia consumer. Davis taught to sample downloaded multimedia files in synchronization

with a project file (col.5, lines 33-45, 55-61, col.7, lines 37-54, col.9, lines 10-29, 47-53; real-

time media signal). It would have been obvious to one of ordinary skill in the art at the time the

invention was made to combine the teachings of Hoffert and Davis because Davis' teachings of

multimedia operations allows the users to manipulate the downloaded multimedia from Davis'

multimedia warehouse and create customized media presentations (col.1, lines 50-61, col.4, lines

32-44). Hoffert and Davis did not specifically teach to sell or license the downloaded

multimedia file to the multimedia consumers. Eberman taught that the multimedia files can be

sold to consumers (col.1, lines 11-52). It would have been obvious to one of ordinary skill in the

art at the time the invention was made to combine the teachings of Hoffert, Davis and Eberman

because Eberman's teaching of selling multimedia contents from a database enables Hoffert and

Davis's system to bill the users for downloading multimedia from the multimedia warehouse

(col.1, lines 41-48).

25.   As per claim 15, Hoffert, Davis and Eberman taught the invention substantially as

claimed in claim 14. Hoffert further taught that the multimedia files are selected from a group

consisting of audio files, video files, combined audio and video files and picture files (col.3, lines

36-43).

26.   As per claim 16, Hoffert, Davis and Eberman taught the invention substantially as

claimed in claim 14. Davis further taught that the project file is selected from a group consisting

of audio files, video files, combined audio and video files and picture files (col.7, lines 54-64,

col.9, lines 21-29).

27.   As per claim 17, Hoffert, Davis and Eberman taught the invention substantially as

claimed in claim 14. Davis further taught to search the multimedia warehouse for multimedia

files that best-match user-defined search criteria (col.9, lines 35-50).

28.   As per claim 18, Hoffert, Davis and Eberman taught the invention substantially as

claimed in claim 14. Davis further taught that additionally editing playback attributes of the

downloaded multimedia files (col.5, lines 33-45, 55-61, col.7, lines 37-54, col.9, lines 10-29, 47-

53; playback rate).

29.   As per claim 21, Hoffert, Davis and Eberman taught the invention substantially as

claimed in claim 14. Hoffert further taught the method to comprise presenting a multimedia

consumer's request for a revision to a multimedia file to a multimedia provider (col.8, lines 57-

67, col.9, lines 1-29).

30.   Claims 19-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hoffert,

Davis and Eberman as applied to claim 14 above, and further in view of Mark Davis (hereinafter

'048), US 5,706,048.

31.   As per claim 19, Hoffert, Davis and Eberman taught the invention substantially as

claimed in claim 14. Hoffert, Davis and Eberman did not specifically teach to comprise

presenting a multimedia consumer's request for a custom multimedia file to a multimedia

provider. '048 taught to send request for a custom multimedia file to a multimedia provider

(col.6, lines 57-63, col.7, lines 9-12, 30-37; fig.8-9). It would have been obvious to one of

ordinary skill in the art at the time the invention was made to combine the teachings of Hoffert,

Davis, Eberman and '048 because '048's teachings of requesting custom video enables the users

of Hoffert, Davis and Eberman's method to request specific desired multimedia to meet their

need.

32. As per claim 20, Hoffert, Davis, Eberman and '048 taught the invention substantially as

claimed in claim 14. '048 further taught to comprise accepting or rejecting the multimedia

consumer's request for the custom multimedia file (col.7, lines 9-12, 30-39, col.8, lines 19-26,

65-67, col.9, lines 1-3; figs. 8-9).

33. Claims 22 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Gustman, US 5,832,499, in view of Davis et al (hereinafter Davis), US 5,969,716.

34. As per claim 22, Gustman taught the invention substantially as claimed including a

computer-readable storage medium containing computer executable code for instructing one or

more computers to:

    a. Receive input defining multimedia file search criteria (col.5, lines 1-6, col.9, lines

       30-41);

    b. Search one or more database for multimedia files that best-match the search

       criteria (col.5, lines 6-22, col.9, lines 41-45);

       c. Present output containing a selectable listing of the multimedia files that best-

          match the search criteria to a user (col.5, lines 20-34, col.9, lines 44-67); and

       d. Present output playing the selected multimedia files (col.5, lines 22-34, col.9,

          lines 64-67).

35.   Gustman did not specifically teach the receive user input selecting one or more of the

presented multimedia files and present output playing the selected multimedia files in

synchronization with a project file. Davis taught to play retrieved multimedia files in

synchronization with a project file (col.5, lines 33-45, 55-61, col.7, lines 37-54, col.9, lines 10-

29, 47-53; real-time media signal). It would have been obvious to one of ordinary skill in the art

at the time the invention was made to combine the teachings of Gustman and Davis because

Davis' teachings of multimedia operations allows the users to manipulate the downloaded

multimedia from Davis' multimedia warehouse and create customized media presentations

(col.1, lines 50-61, col.4, lines 32-44). Gustman and Davis did not specifically teach to select

one or more of the presented multimedia files. However, Official Notice is taken that it is

obvious to enable a user to input selection of one or more presented multimedia for playing. It

would have been obvious to one of ordinary skill in the art at the time the invention was made to

combine the teachings of Gustman, Davis and further enables user to input selection form the

user interface to select the desired multimedia file from the search results to caching and playing

rather than caching all returned files.

36.   As per claim 24, Gustman and Davis taught the invention substantially as claimed in

claim 22. Davis further taught to instruct the one or more computers to edit playback attributes

of the selected multimedia files (col.5, lines 33-45, 55-61, col.7, lines 37-54, col.9, lines 10-29,

47-53; playback rate).

37.   Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gustman and

Davis as applied to claim 22 above, and further in view of Eberman et al (hereinafter Eberman),

US 6,173,287.

38.   As per claim 23, Gustman and Davis taught the invention substantially as claimed in

claim 22. Gustman and Davis did not specifically teach to instruct the one or more computers to

receive user input selecting one or more multimedia files to purchase or license. Eberman taught

that the multimedia files can be purchased by the consumers (col.1, lines 11-52). It would have

been obvious to one of ordinary skill in the art at the time the invention was made to combine the

teachings of Gustman, Davis and Eberman because Eberman's teaching of selling multimedia

contents from a database enables Gustman and Davis's system to bill the users for retrieving

multimedia from the database (see Eberman, col.1, lines 41-48).

Conclusion

39.   The prior art made of record and not relied upon is considered pertinent to applicant's

disclosure.

        Walker et al, US 6,249,865.

Ronning, US 5,887,060.

Cruz et al, US 5,613,032.

Klingler et al, US 5,682,326.

Hobbs, US 6,523,022.

Purnaveje et al, US 6,230,172.

40.   A shortened statutory period for reply to this Office action is set to expire THREE

MONTHS from the mailing date of this action.

41.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Kenny Lin whose telephone number is (571) 272-3968. The

examiner can normally be reached on 8 AM to 5 PM Tue.-Fri. and every other Monday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, John Follansbee can be reached on (571) 272-3964. The fax phone number for the

organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ksl
February 3, 2005

John Ballantyne